

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
SUPPLEMENTAL DOCKET NUMBER 1  
FOR THE REGULAR MEETING OF  
MONDAY, OCTOBER 17, 2005 AT 2:00 P.M.  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS  
RESOLUTIONS:**

ITEM-S400: Policy Direction Regarding Provision of Defense for Defendants in Case No. GIC 854373 City of San Diego vs. Murphy, Zucchet, Inzunza, et al.

(Continued from the meeting of October 10, 2005, Item 203, at the request of City Attorney Aguirre, for further review.)

**CITY MANAGER’S RECOMMENDATION:**

Consider the request for provision of a defense, and provide direction regarding **either** Subitem A or Subitem B, as follows:

Subitem-A: (R-2006- )

Declaring that the City of San Diego shall provide for the defense of the individuals named in the Civil Action, City of San Diego v. Murphy, et al.; including Richard Murphy, Michael Zucchet, and Ralph Inzunza (Case No. GIC 854373);

Directing the City Attorney to prepare the appropriate Resolution associated with the Council direction.

**Or**

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS**  
**RESOLUTIONS:**

ITEM-S400: (Continued)

Subitem-B: (R-2006- )

Directing the City Attorney to dismiss the Civil Action, City of San Diego v. Murphy, Zucchet, Inzunza, et al; and authorizing the City Manager to pay the Attorney's fees incurred to date by the defendants;

Directing the City Attorney to prepare the appropriate Resolution associated with the Council direction.

**CITY MANAGER SUPPORTING INFORMATION:**

On September 23, 2005, the San Diego City Attorney filed a Civil Action in the Superior Court of California entitled City of San Diego v. Murphy, Inzunza, Zucchet, et al., Case No. GIC 854373. Former Mayor Murphy and Councilmembers Inzunza and Zucchet are named as defendants in the action which alleges that these individuals, in their capacities as Mayor and City Councilmen, participated in City Council votes related to payment of pension benefits via the Legislative Officers'/Elected Officers Retirement Plan that were not in compliance with the City Charter and that certain votes violated the Liability Limit Laws (Article XVI Section 18 of the California Constitution and San Diego Charter Section 99). The Complaint also alleges that certain votes violated the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (PRA).

A request has been tendered, on behalf of the defendants named in this action, for the City of San Diego to provide for their legal representation consistent with the provisions of Government Code Section 995 which provides for defense of any civil action on account of an act or omission in the scope of his or her-employment as an employee of the City. Government Code Section 995.2.b specifies that upon receiving a written request, the public entity shall, within 20 days, inform the employee whether a defense will be provided.

A court ruling on Friday, September 30, 2005, in the case of People v. Grissom, et.al, found that voting on pension-related issues cannot, as a matter of law, support a conflict of interest claim under the PRA. Based on this court ruling, the City Council could consider directing the City Attorney to dismiss the Civil Action - City of San Diego v. Murphy, Zucchet, Inzunza, et. al. which will cease the accrual of any defense costs for which the City may be obligated. The City Manager is requesting Council direction with respect to the request made on behalf of the named defendants. If the Council declares the intent to provide a defense, the City Manager will retain and oversee outside Counsel up to his authorization limit of \$250,000.

Irvine/Plank